

***United States Court of Appeals  
for the Second Circuit***



**APPENDIX**



76-1055

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA

Plaintiff-Appellant

-vs-

Docket No. T-5511

B

SWAT O. TORRES

Defendant-Appellee

APPENDIX OF BRIEF OF DEFENDANT-APPELLANT



HEARBY and RITZIN  
Attorney for Defendant-Appellant  
Office & P.O. Address  
66 Court Street  
Brooklyn, New York 11201

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UNITED STATES DISTRICT COURT -- CRIMINAL DOCKET

SUAT C. TORUN

Felony ☐ JUDGE / Assigned Trial  
 Offense ☒ MAGISTRATE  
 207 1 District Office

75 CR 781

Case Filed  
 Day Mo. Yr. Docket No. Det.  
 23 10 75 781 1

CHARGES  
 U.S. CODE SECTION  
 (21-844(n))  
 U.S. Attorney or Asst  
 Clayman

Did possess a quantity of cocaine  
 not pursuant to a valid prescription  
 Harold I. Venokur, 16 Court St.  
 Brooklyn, N.Y.  
 237-1616

MAGR. CASE NO. 75-781  
 Bail ☐ Personal Recog.  
 Denied ☐ Unsecured Bond  
 AMT ☐ Conditional Release  
 Set (\$000) ☐ 10% Dispos  
 \$ ☐ Surety Bond  
☐ Collateral  
☐ Bail Not Made  
☐ 3rd Party  
☐ Bail Status Changed  
 Custody  
 (See Docket) PSA

ARREST ☒ INDICTMENT ☐ ARRAIGNMENT ☒ TRIAL ☐ SENTENCE  
 High Risk Defn & Date Design'd ☐ 10-23-75  
 Waived ☐ Superseding ☐ Indict/Info ☐  
 10-23-75  
 Trial Set For ☐ Verdict ☐ Disposition  
 Not Guilty ☐ Guilty ☒ Guilty ☐ Guilty  
 Trial Begun ☐ Trial Ended ☐ Convicted ☐ On All Chrgs  
 Acquitted ☐ On Lesser Offense(s)  
 Dismissed ☐ WOP, DWP  
 Noted/Discontinued\*

Search Warrant	Issued	DATE	INITIAL/No.	INITIAL APPEARANCE	INITIAL/No.	OUTCOME
Summons	Issued			PRELIMINARY EXAMINATION OR REMOVAL HEARING		<input type="checkbox"/> Dismissed <input type="checkbox"/> Held for District GJ <input checked="" type="checkbox"/> Held to Answer to U. S. District Court BOND <input type="checkbox"/> Exonerated <input type="checkbox"/> To Transfer District AT 880Y Magistrate's Initials
Arrest Warrant	Served	7/24/75	VAC 0706	Waived <input checked="" type="checkbox"/> Not Waived <input type="checkbox"/> Intervening Indictment <input type="checkbox"/>		
COMPLAINT		7/24/75	715 0706	Tape No	INITIAL/No.	
OFFENSE (In Complaint)						

DATE		PROCEEDINGS	V. Excludable Delay			
			(a)	(b)	(c)	(d)
10-23-75		Information filed.				
10-23-75		Before BARTELS J - case called - deft & counsel M. Venokur present - deft arraigned and having been advised of his rights by the court, including the Y.C.A. enters a plea of guilty as charged - sentence adjd without date - bail contd (o.r.)				
10-23-75		Notice of Appearance filed.				
12/19/75		Before BARTELS, J.- Case called- deft and counsel present in lieu of a definite term-deft sentenced to custody of Atty General for treatment and supervision pursuant to the provisions of the Y.C.A., T-18, U.S.C. Sec.5010(b), until discharged by the Youth Correction Division-deft to surrender on 1/2/76 at 10:00 .A.M.				

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

----- X  
UNITED STATES OF AMERICA

- against -

SUNY C. TORUM,

Defendant.

INFORMATION

Cr. No. 75 CR 781  
(T. 21, U.S.C., 844(a))

----- X  
THE UNITED STATES ATTORNEY CHARGES:

On or about the 20th day of May 1974, within the Eastern District of New York, the defendant SUNY C. TORUM did knowingly and intentionally possess a quantity of cocaine, a Schedule XI controlled substance, which possession was not pursuant to a valid prescription or order from a practitioner acting in the course of his professional practice and which possession was not authorized by any subchapter of the Narcotics Control Act of 1970. (Title 21, United States Code, Section 844(a)).

UNITED STATES ATTORNEY  
EASTERN DISTRICT OF NEW YORK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT of NEW YORK  
United States v. [illegible]

Docket Number

75 CR 71

UNIT. C. TORON

[illegible]

(District Court Judge)

Defendant

NOTICE OF APPEAL

Notice is hereby given that [illegible] appeals to  
the United States Court of Appeals for the Second Circuit from the ☐ Judgment ☐ order ☐ other  
(specify) [illegible] entered in this action on [illegible]

(Date)

(Counsel for Appellant)

Date  
To:

Address

Phone Number

ADD ADDITIONAL PAGE IF NECESSARY

(TO BE COMPLETED BY ATTORNEY)

TRANSCRIPT INFORMATION - FORM B

QUESTIONNAIRE

TRANSCRIPT ORDER

DESCRIPTION OF PROCEEDINGS  
FOR WHICH TRANSCRIPT IS  
REQUIRED (INCLUDE DATE)

- ☐ I am ordering a transcript  
☐ I am not ordering a transcript  
Reason:  
☐ Daily copy is available  
☐ U.S. Attorney has placed order  
☐ Other. Attach explanation

- Prepare transcript of  
☐ Pre-trial proceedings  
☐ Trial  
☐ Sentence  
☐ Post-trial proceedings

The ATTORNEY certifies that he will make satisfactory arrangements with the court reporter for payment of the cost of the transcript. (FRAP 10(b)) ☐ Method of payment ☐ Funds ☐ CJA Form 21

ATTORNEY'S signature

DATE

COURT REPORTER ACKNOWLEDGEMENT

To be completed by Court Reporter and  
forwarded to Court of Appeals.

Date order received

Estimated completion date

Estimated number  
of pages.

Date

Signature

(Court Reporter)

COPY FOR DEFENDANT

BEST COPY AVAILABLE

1 UNITED STATES DISTRICT COURT  
2 EASTERN DISTRICT OF NEW YORK

3 -----x

4 UNITED STATES OF AMERICA :

5 -against- :

75 CR 781

6 SUAT CIBAN TORUN, :

7 Defendant. :

8 -----x

10 United States Courthouse  
11 Brooklyn, New York

12 December 19, 1975  
13 9:30 a.m.

14 CRIMINAL CAUSE FOR SENTENCING

15  
16 B e f o r e :

17 HONORABLE JOHN R. BARTLES, U.S.D.J.  
18

19  
20  
21  
22  
23 MICHAEL PICOZZI  
24 OFFICIAL COURT REPORTER  
25

## 1      Appearances:

2                    DAVID C. TRAGER, ESQ.  
3                    United States Attorney  
4                    for the Eastern District of New York


5                    BY: CHARLES CLAYMAN, ESQ.  
6                    Assistant United States Attorney

7                    HAROLD VERNOR, ESQ.  
8                    Attorney for Defendant

9                    - - -

1 THE COURT: Suat Cihan Torun, before imposing  
2 sentence on you, do you have anything to say in  
3 mitigation of sentence?

4 THE DEFENDANT: I would like to have my attorney  
5 explain.

6 THE COURT: Mr. Venokur. 

7 MR. VENOKUR: Yes, your Honor. Before I start  
8 I would like to state that Mr. Torun's father and  
9 mother and brother are in court on his behalf and are  
10 available for any questions you may have as to his  
11 family background.

12 I have read the Pre-Sentence Report. Substan-  
13 tially it is just as my client has informed me. There  
14 are one or two points I would like to elaborate on.  
15 My client informs me that the Federal Probation Officer  
16 was supposed to have gotten a letter from his employer.

17 When was that letter sent?

18 THE DEFENDANT: I believe two weeks ago.

19 MR. VENOKUR: If you haven't gotten it, we will  
20 proceed without it.

21 THE COURT: I don't have it in the file.

22 MR. VENOKUR: If you desire to see it -- well,  
23 have you seen a copy of it?

24 THE DEFENDANT: Yes. It states that I am work-  
25 ing for this person, this company.

THE COURT: What kind of work is it?

1  
2 THE DEFENDANT: I am a supervisor in a plant,  
3 a plastic recycling plant in Brooklyn.

4 MR. VEHOKUR: It does mention his employment  
5 in there.

6 In addition, there are a couple of matters  
7 mentioned in the report, one refers to the lack of  
8 a W-2 form or current withholding with reference to  
9 his corporate withholdings and I asked the defendant  
10 about that and he has been negotiating for some  
11 months relative to taking over and becoming a partner  
12 in the business. It's not considered quite as an  
13 employee and he doesn't pay taxes --

14 THE COURT: The report indicates he was employed  
15 off the books. Do you know what that means? That's  
16 an effort on the part of the employer and the employee  
17 not to pay taxes.

18 MR. VEHOKUR: That's why I mentioned that he is  
19 negotiating -- he can explain further about the  
20 negotiations -- he is supposed to be buying the plant.

21 THE DEFENDANT: There was also an agreement  
22 submitted to the Probation Officer saying I will in  
23 turn become a partner after a period of time, if the  
24 employer thinks I am worthy of taking over.

25 THE COURT: I will listen.

1           MR. VENOXUR: There was talk in there about his  
2 endeavors to cooperate with the Federal Government  
3 and the Probation Report does state that, but I  
4 discussed it with Mr. Torun at length and I've come  
5 to the conclusion and he agrees with me that the way  
6 we went about it was a stupid way but the report does  
7 state he did talk about various people he knows and  
8 all that.

9           He explained to me -- trying to impress upon  
10 the undercover agent, not knowing who he was that he  
11 was a big dealer in narcotics. He would further his  
12 cooperation regarding the weapons -- he had been  
13 working with an agent Curran who is in Buffalo and he  
14 called the agent and asked him to write a letter and  
15 Agent Curran does not desire to do so.

16           In any case, he did try to cooperate and as the  
17 report states, because he was under State probation,  
18 that cooperation could not be consummated.

19           Apparently there are rules objecting to coopera-  
20 tion where a person cannot work with Federal Agents  
21 while under State probation.

22           THE COURT: He has a record.

23           MR. VENOXUR: He has that one case, your Honor,  
24 where he is on the State Probation and has two dismissals.

25           THE COURT: I think in the Criminal Court of the

1 City of New York dismissals are routine and expected.  
2 It's a mere matter of form there.

3 MR. VENOKUR: Well, I practice before that  
4 Court --

5 THE COURT: You know.

6 MR. VENOKUR: I don't find that. I have many  
7 cases that are not dismissed. I don't say it proudly.  
8 I would like to say it is on the merits --

9 THE COURT: Yes, indeed. I know what goes  
10 on in the Criminal Court of the City of New York, it's  
11 what they call the revolving door. And that door gets  
12 around pretty fast.

13 MR. VENOKUR: I hope that is not a factor.

14 THE COURT: Has nothing at all to do with my  
15 decision. Every report I read where there is a record,  
16 it is the same story, it's nothing new with him at all.

17 MR. VENOKUR: He does have a conviction.

18 THE COURT: I looked at his case on the merits.

19 MR. VENOKUR: I appreciate that.

20 THE COURT: When you are dealing with cocaine  
21 and drugs you are dealing with a serious thing. It's  
22 up to the Court to see that the law is enforced. I  
23 am ready to impose sentence. I must say to you, as I  
24 said to others, this isn't a case where the Court steps  
25 up on the bench without having a conference beforehand,

1 we've had a conference on this case. We had recommen-  
2 dations. We have a pre-sentence panel.

3 MR. VENDOR: You had a conference?

4 THE COURT: Not with you.

5 MR. VENDOR: I was wondering. In the State  
6 Court we sometimes have pre-sentence conferences.

7 THE COURT: You keep on talking and you will  
8 move my point about what I said of the State process.

9 Have you anything more to say?

10 MR. VENDOR: I want to add that he mentioned  
11 a moment ago he has been negotiating to take over the  
12 business.

13 THE COURT: What kind of business is it?

14 MR. VENDOR: It's a recycling factory.

15 THE COURT: Recycling?

16 THE DEFENDANT: Plastic recycling business.

17 MR. VENDOR: He has been working as a super-  
18 visor and they have confidence in him and they are  
19 willing to give him all or part of the business through  
20 an arrangement.

21 I would, your Honor, beg of you if you can  
22 possibly have him remain out of custody and be able  
23 to proceed and make his way in society, I feel that  
24 he has made his mistake and appreciates that fact  
25 and it's not going to re-occur.

1 THE COURT: Suat Cihan Torun, on your plea of  
2 guilty to the one count of information 75 CR 781, in  
3 lieu of a definite term, I sentence you to the custody  
4 of the Attorney General for treatment and supervision  
5 pursuant to the provisions of the Youth Corrections  
6 Act, Section 5010(b) of Title 18, United States Code,  
7 until discharged by the Youth Corrections Division.

8 NEXT case.

9 MR. VENOKUR: Immediately?

10 THE COURT: All sentences are immediate.

11 MR. VENOKUR: I was going to ask the time.

12 I would like to have some time for him to settle his  
13 affairs.

14 THE COURT: How much time?

15 MR. VENOKUR: How long will you need, a week?

16 THE DEFENDANT: At least a week after next year.

17 THE COURT: January 2nd.

18 I think I explained what the Youth Corrections  
19 Act provides for at the time I took his plea. He may  
20 be able to increase his knowledge of recycling there.  
21 It's not a straight sentence. They have provisions  
22 for youths and if he does the right thing it's pos-  
23 sible, and I don't make any promises, that an appli-  
24 cation can be made to see that the offense is erased.

25 I know under one sentence of the Youth Correc-

1           tions Act it is, but whether it is true under 5010(b),  
2           I am not sure. It is an elastic sentence and all  
3           depends on him.

4           Next case.

5           THE PROBATION OFFICER: Was there a time set?

6           THE COURT: January 2, 10 o'clock, to surren-  
7           der.

8           (Whereupon, the proceedings were concluded.)

9                   \* \* \*